

**REMARKS**

Reconsideration of the above identified application in view of the following remarks is respectfully requested.

Applicant's representative would like to thank Examiner Goldman for the courtesies extended during our telephone conversation of July 28, 2009.

**I. 35 U.S.C. §103 Rejections**

In the Office Action, Claims 27, 28, 32-40, 44-46 and 48-55 were rejected under 35 U.S.C. §103(a) over U.S. Patent No. 7,155,405 to Petrovich in view of U.S. Patent No. 7,009,650 to Kashio. The Examiner's grounds for rejection are herewith traversed, and reconsideration is respectfully requested.

Petrovich discloses the flow of "item information" about a store's products to a portable device.

In the Office Action, section 3, on page 3, line 3 to 4, Examiner states "item information (display capabilities and picture messaging protocols)", indicating that the Examiner interprets "display capabilities and picture messaging protocols" as recited in claim 27 as "item information" in Petrovich. Applicant respectfully traverses this statement for the following reasons.

The term "item information" in the Petrovich reference is described in column 10, line 48-49 as "purchase data (or more broadly defined as the item information)" and "purchase data" is described in column 6, lines 7-9 "the device 102 has stored therein POA [point-of-access] purchase data that defines those items of potential purchase scanned by the customer 100 while in the store".

In contrast, in page 12, lines 16-17 of the Applicant's application as filed "display

capabilities” are described thus; “Device display capabilities such as display resolution”. In page 12, lines 14-16 of the Applicant’s application as filed “picture messaging protocols” are described thus; “picture messaging protocols such as Nokia Smart Messaging or EMS (Enhanced Message Service)”

Therefore, Applicant asserts that there is no relation between “item information” of Petrovich and “display capabilities and picture messaging protocols” as recited in claim 27, thus there is a difference in this regard between the claims at issue and the Petrovich reference:

Also, the Petrovich reference does not disclose a mobile device type identifier associated with said mobile device as recited in claim 27. In contrast, Petrovich discloses unique identifiers for each device and customer as described in column 16, lines 50-51 “when customer 100 enters the store, the UDID [unique device ID] 1008 is communicated to the store system, such that the customer preference data can be retrieved”. Applicant asserts that a unique identifier for each device and customer is not a device type identifier. Therefore there is a difference in this regard between the claims at issue and the Petrovich prior art.

In the Office Action, section 3, on page 4, second last paragraph, Examiner writes:

“Kashio discloses the feature whereby mobile devices in a network can be ‘discovered’ ‘configured’ and used by other devices (see abstract, lines 1-15, also see column 1, line 62 through column 3, line 12 whereby a data communications device utilizes the display area effectively by enhancing the visual effects and image quality ...). Therefore it would have been obvious ... to modify Petrovich to include ... downgrading said message data responsive to said stored display capabilities and picture messaging protocols as taught by Kashio”. Therefore, as acknowledged by Examiner, Kashio teaches enhancing. Applicant asserts that enhancing is the opposite of downgrading. The abstract of Kashio further teaches away from downgrading by

image deterioration where it states “the common problem of decreased visibility from image deterioration does not occur”. Furthermore, Kashio does not disclose downgrading (or even enhancing) said message data responsive to said stored display capabilities and picture messaging protocols. Therefore there is a difference in these regards between the claims at issue and the Kashio prior art.

Neither Petrovich nor Kashio disclose or suggest, alone or in combination, in whole or in part, such a structural configuration as recited in claim 27. Accordingly, Claim 27 and each of the claims depending therefrom distinguish the subject invention from the proposed combination and withdrawal of the rejection is respectfully requested.

Turning to Claim 39, it recites, *inter alia*, a method for delivering a message to a mobile device including the steps of generating an optimized message responsive to said message data and to the stored display capabilities and picture messaging protocols corresponding to said mobile device type identifier, wherein said coupon comprises a barcode image, and said step of generating an optimized message comprises downgrading said message data responsive to said stored display capabilities and picture messaging protocols. Neither Petrovich nor Kashio disclose or suggest such steps. Claim 51 for a computer-readable medium recites similar limitations. Accordingly, Claims 39, 51 and each of the claims depending therefrom distinguish the subject invention from the combination of Petrovich and Kashio, and withdrawal of the rejection is respectfully requested.

In the Office Action, Claims 29 and 41 were rejected under 35 U.S.C. §103(a) over Petrovich and Kashio in view of U.S. Patent No. 7,305,442 to Lundy. The Examiner's grounds for rejection are herewith traversed, and reconsideration is respectfully requested.

It is respectfully submitted that Lundy does not overcome the deficiencies of Petrovich

and Kashio. In particular, Petrovich and Kashio do not disclose a message optimizer that generates an optimized message responsive to said message data and the stored display capabilities and picture messaging protocols corresponding to said mobile device type identifier, wherein said coupon comprises a barcode image and said message optimizer generates said optimized message by downgrading said message data responsive to said stored display capabilities and picture messaging protocols as recited by Claim 27. For brevity, Claim 39 also distinguishes over Petrovich and Kashio as noted above but the argument is not repeated. Hence, Claims 29 and 41 by virtue of dependency from 27 and 39, respectively, distinguish the subject invention from the combination of Petrovich , Kashio and Lundy, and withdrawal of the rejection is respectfully requested.

Any additional fees or overpayments due as a result of filing the present paper may be applied to Deposit Account No. 04-1105. It is respectfully submitted that all of the claims now remaining in this application are in condition for allowance, and such action is earnestly solicited.

If after reviewing this amendment, the Examiner believes that a telephone interview would facilitate the resolution of any remaining matters the undersigned attorney may be contacted at the number set forth herein below.

Respectfully submitted,

Date: August 7, 2009

Electronic Signature: //George N. Chaclas//  
George N. Chaclas, Reg. No. 46,608  
Edwards Angell Palmer & Dodge LLP  
Attorney for Applicants  
P.O. Box 55874  
Boston, MA 02205  
Tel: (401) 276-6653  
Fax: (888) 325-1684  
Email: gchaclas@edwardsangell.com

BOS2 750751.1